

May 13, 2002

**VIA ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW, Room TWB-204  
Washington, DC 20554

Re: *Second Joint Application of BellSouth for Provision of In-Region,  
InterLATA Services in Georgia and Louisiana, CC Docket No. 02-35*

Dear Ms. Dortch:

AT&T Corp. (“AT&T”) submits this letter in response to the *ex parte* letter submitted by BellSouth on May 9, 2002, regarding its change control process (“CCP”).<sup>1</sup> BellSouth’s misleading “update” on the CCP cannot alter the reality that the core defects in the CCP that have denied CLECs a meaningful opportunity to compete still exist.

BellSouth suggests that it has reached agreement with the CLECs on all but “three issues” with the CLECs, and that the “bulk” (or “almost all”) of the remaining issues have been resolved. BellSouth *ex parte* at 1, 4, 7. As BellSouth knows, that is not the case. In the first place, the “three issues” that BellSouth describes (prioritization and scheduling of change requests, defect intervals for medium and low defect change requests, and requests for expedited implementation of Type 2/Type 4 BellSouth features) encompass 25 of the 56 issues in the tracking tool matrix used in the meetings between BellSouth and the CLECs regarding the redlined/greenlined versions of the CCP document. *See* AT&T April 19 *ex parte* at 5. Thus, nearly half of the issues remain unresolved.

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<sup>1</sup> *See ex parte* letter from Glenn T. Reynolds to Marlene H. Dortch, dated May 9, 2002 (“BellSouth *ex parte*”).

More fundamentally, even if BellSouth's count is correct (and it is not), the *number* of unresolved issues is irrelevant. What matters is the *importance* of those issues to the ability of the CLECs to compete meaningfully with BellSouth in the local exchange market. The "three issues" that BellSouth describes as unresolved involve fundamental flaws in the CCP which render it woefully inadequate.

BellSouth's latest *ex parte* simply repeats many of the same arguments that BellSouth has previously made in this proceeding. Because AT&T has addressed most of these arguments in its comments and in its *ex parte* letters filed on April 19 and May 10, 2002, AT&T will limit its response to describing the critical issues that remain unresolved – and that must be resolved before the Commission can reasonably find the CCP to be adequate for purposes of Section 271.<sup>2</sup>

In its April 19 *ex parte*, AT&T showed that BellSouth must make at least six additional, substantial revisions in its CCP before the CCP could reasonably be found to be in compliance with Section 271. Those revisions are:

- First, BellSouth should be required to agree to a specific timetable for implementation of change requests, without attaching conditions to the timetable (such as "subject to capacity constraints"). Type 4 and Type 5 changes should be implemented no later than 60 weeks after prioritization. Only with the approval of the CLECs (or the state regulatory commission) should BellSouth be permitted to deviate from this timeline.
- Second, BellSouth should be required to implement a single prioritization process, in which BellSouth and the CLECs jointly make the final determination as to the prioritization and implementation of change requests. This process would replace the current process, under which BellSouth has a veto power over change requests, treats CLECs' prioritization of change requests as purely informational, and unilaterally makes the final determinations regarding prioritization and implementation in an internal process without CLEC involvement.

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<sup>2</sup>At various points in its letter, BellSouth asserts that the "three remaining issues" in dispute were "referred" or "submitted" to the Georgia PSC for resolution on May 2, 2002. BellSouth *ex parte* at 1, 4, 7. In reality, however, there has been no formal referral or resolution of these issues to the GPSC. At the conclusion of the May 2, 2002, meeting between BellSouth and the CLECs, BellSouth indicated that it was making its "best and final" offer, and the parties agreed that they were at an impasse, on such issues as prioritization of change requests. A representative of the GPSC at the meeting requested a list of issues on which the parties had not reached agreement. Even if the Georgia PSC now begins to review the unresolved issues in its proceedings involving performance measurements and the CCP, it is unclear whether, or when, the problems with the CCP will be fixed. The GPSC has set no schedule for resolution of CCP issues in its proceedings, and – despite overwhelming evidence to the contrary – has already found the CCP to be adequate. April 19 *ex parte* at 7.

- Third, BellSouth should be required to provide complete and accurate information regarding the capacity of its releases, together with information regarding the timing of proposed releases on a rolling basis (for example, for twelve months). This information is critical to CLECs' long-term planning.
- Fourth, BellSouth should be required to commit to implementing the current substantial backlog of change requests within a specific, reasonable timeframe. Although the above-described 60-week deadline will help to resolve the timing issues on a going-forward basis, BellSouth should be required to complete implementation of the entire backlog within a specific period. AT&T believes that an 18-month time limit should be imposed.
- Fifth, BellSouth should be required to design the CAVE testing environment to mirror the production environment. Thus, BellSouth should be required to allow CLECs to use their own codes (rather than BellSouth's codes) in the testing environment. In addition, BellSouth should be required to implement a "go/no go vote" process that would ensure that a scheduled change will go forward only with the CLECs' consent and that CLECs can stop a planned change that may cause problems in the OSS, based on testing in CAVE or on a review of documentation when testing is unavailable.
- Sixth, the CCP document should be revised to make clear that the CCP includes all of BellSouth's OSS used to provide services to CLECs. Thus, the CCP should be amended to specifically include within its scope all of BellSouth's legacy systems, linkage systems, billing systems, and work centers.

AT&T April 19 *ex parte* at 8-9. BellSouth, however, has agreed only to the last of these revisions – the clarification of the scope of the CCP. *See* AT&T May 10 *ex parte* at 1; *cf.* BellSouth *ex parte* at 4 (stating that BellSouth has agreed to the CLECs' definition of "CLEC-affecting change"). BellSouth has *not* agreed, however, to the remaining five critical revisions that are needed.

First, BellSouth still refuses to agree to a specific, unqualified timetable for implementation of change requests, including implementation of Type 4 and 5 requests no later than 60 weeks after prioritization. Although BellSouth's *ex parte* criticizes at length the CLECs' 60-week proposal, *BellSouth proposes no timetable for implementation at all*. Instead, asserting that a specific timetable "is simply not workable," BellSouth promises only to "allow the CLECs to prioritize the implementation 'subject to capacity constraints.'" BellSouth *ex parte* at 8. BellSouth's new position constitutes a retreat even from its previous (and meaningless) proposal to implement prioritized CLEC-initiated change requests within 60 weeks, "subject to capacity constraints." *See* AT&T April 19 *ex parte* at 6. In short, BellSouth continues to insist that it retain exclusive control over the timing of the implementation of change requests.

BellSouth's promise to implement the CLECs' "Top 15" change request by the end of this year – a promise repeated once again in its *ex parte* – simply confirms its total

control over the implementation and scheduling of change requests. BellSouth *ex parte* at 6. Aside from the “Top 15” change requests, BellSouth makes no commitment to implement any prioritized requests by a specific date, either in 2002 or thereafter. AT&T April 19 *ex parte* at 5 & n.10.<sup>3</sup> Moreover, implementation of the “Top 15” change requests illustrates BellSouth’s abysmal record of delay in implementing change requests, because the “Top 15” requests were, on average, submitted 24 months ago.

Second, BellSouth has refused to implement a single prioritization process in which BellSouth and the CLECs would jointly make the final decision regarding the prioritization and implementation of change requests. Instead, BellSouth retains exclusive power over the prioritization, implementation, scheduling, and sequencing of change requests.

BellSouth denies that it has any veto power or exclusive control over change requests, asserting that under “transparent rules of the CCP” (which BellSouth does not specify), “CLEC change requests are worked in the order in which they are prioritized by the CLECs, consistent with the available capacity of a given release and any applicable technical constraints.” BellSouth *ex parte* at 10. BellSouth’s assertion that CLEC change requests are “worked in the order in which they are prioritized by the CLECs” is flatly wrong. For example, even though the CLECs assigned the highest priority to a change request for parsed CSR functionality, more than two years passed until BellSouth implemented it – and only after BellSouth was ordered to do so by the Georgia PSC. Moreover, the substantial backlog of change requests, some of which were submitted by the CLECs in 1999 and were prioritized long ago, belies any notion that BellSouth follows the CLECs’ prioritization. *See* Bradbury/Norris Decl. ¶ 145 & Att. 38.<sup>4</sup>

BellSouth’s denial of any veto power is further belied by its own admission that it implements these requests “consistent with the available capacity of a given release and any applicable technical restraints.” BellSouth *ex parte* at 10. BellSouth – and BellSouth alone – makes the determination of whether capacity, or “technical restraints,” permit implementation of particular change requests. *See also id.* at 8 (stating that BellSouth “will allow the CLECs to prioritize the implementation ‘subject to capacity constraints’”). Furthermore, BellSouth’s statement that it will use the prioritization information provided by the CLECs on May 22, 2002, “to scope the first 2003 production release” (*id.* at 6) is

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<sup>3</sup>BellSouth’s assertion that it had provided notices of changes and documentation in a timely manner is simply an attempt to divert attention from its refusal to commit to a specific timetable for implementation of change requests. BellSouth *ex parte* at 2-3, 9. Although CLECs certainly need the timely provision of documentation and other notification of changes, the timeliness issue here involves BellSouth’s failure to implement change requests in a timely manner, and the substantial backlog of requests that has resulted from that failure.

<sup>4</sup> BellSouth also suggests that it has no veto power because the CCP process includes resolution procedures that provide for the “quick resolution of disputes through upper level BellSouth management and to state regulatory bodies.” BellSouth *ex parte* at 10. In fact, however, the CCP provides no timetables or procedures for resolution of such disputes by state regulators. Bradbury Decl. ¶ 208.

an admission that it makes the final decisions about such scoping in its own, closed internal process – a process that KPMG has criticized in its third-party testing in Florida.<sup>5</sup>

BellSouth’s proposal for two types of releases – “BellSouth production releases and CLEC production releases” – does not remove or reduce its exclusive control over prioritization, implementation, sequencing, and scheduling of change requests. *See* BellSouth *ex parte* at 8. BellSouth’s proposal is fundamentally flawed, because it arbitrarily divides releases by CLECs and BellSouth and focuses on the originator of the change requests, rather than determine implementation of changes according to their need through simultaneous consideration of Type 4 and Type 5 changes by all parties. BellSouth’s proposal would also give BellSouth the same degree of control over its own change requests that it has today (except to the extent that the CLECs included such requests in “their” releases). AT&T April 19 *ex parte* at 6; BellSouth *ex parte* at 8.<sup>6</sup>

BellSouth attempts to defend its refusal to implement a single prioritization process by asserting that the CLECs’ proposals regarding the process “would give CLECs control over BellSouth systems and could easily prevent BellSouth from making system improvements focused on improving the efficiency of BellSouth’s operations.” BellSouth *ex parte* at 8. BellSouth’s argument is a red herring. The CLECs’ proposal for a single prioritization process provides that, if the CLECs disagreed with BellSouth’s proposed prioritization of change requests, BellSouth could either seek relief from the Georgia PSC or request an expedited implementation process through further negotiations with the CLECs. Furthermore, BellSouth’s suggestion that the CLECs would seek to prevent changes that improve “the efficiency of BellSouth’s operations” is illogical. Because they depend on “BellSouth’s operations” (*i.e.*, its OSS) to conduct transactions with BellSouth, CLECs have every reason to *approve* implementation of any changes that improve those operations.

Third, as AT&T showed in its recent *ex parte*, BellSouth has not provided, or agreed to provide, accurate information regarding the capacity of its releases, together with information regarding the timing of proposed releases on a rolling basis. *See* AT&T May 10 *ex parte*, “Change Control Update” at 2. BellSouth’s claim that it has agreed to

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<sup>5</sup> Bradbury Decl. ¶ 197 & Att. 44. In Exception 88, KPMG summarized the impact of BellSouth’s policy of refusing to allow CLECs to participate in the internal BellSouth processes where the final decisions regarding the prioritization of change requests are made as follows: “This policy inhibits one of the primary objectives of the CCP ‘to allow for mutual impact assessment and resource planning to manage and schedule changes’.” *Id.*, Att. 44 at 2.

<sup>6</sup> BellSouth’s proposal for expedited implementation of Type 2 and Type 4 features is similarly based on its arbitrary division of “CLEC releases” and “BellSouth releases.” BellSouth *ex parte* at 9. Moreover, there is no justifiable basis for BellSouth’s proposal that the “mutual consent” of both the CLECs and BellSouth be required for expedited implementation only in the case of “CLEC releases,” and not for “BellSouth releases”. *Id.* Expedited implementation of a Type 2 or Type 4 change request can affect a CLEC’s ability to use the OSS effectively regardless of whether the request is in a “CLEC release” or a “BellSouth release.”

provide capacity information that allows CLECs “to more efficiently prioritize change proposals” is thus flatly wrong. *See* BellSouth *ex parte* at 5. In addition, BellSouth erroneously portrays the issue as whether it has supplied such information regarding *CLEC* change requests – ignoring the fact that CLECs need capacity information on *all* change requests in order to make meaningful decisions on prioritization, regardless of whether the request was initiated by the CLECs or by BellSouth.

BellSouth’s description of its actual or planned distribution of capacity information is both incorrect and misleading. For example, BellSouth asserts that on March 27, 2002, it provided capacity estimates for “all type 4 and Type 5 change requests that are candidates for prioritization.” *Id.* at 5. That assertion is contrary to the facts. On March 27, BellSouth provided sizing information only for 21 of the 35 change requests scheduled to be prioritized at that meeting. Moreover, the 21 change requests for which BellSouth did provide sizing information constituted less than one-third of the total number of change requests (78) that had not yet been scheduled for implementation at that time. BellSouth has provided no additional sizing information for these requests since the March 27<sup>th</sup> meeting.<sup>7</sup>

BellSouth also states that it “has committed to provide by May 10, 2002, capacity on a release-by-release basis through the end of 2003.” *Id.* BellSouth fails to mention, however, that its provision of 2003 capacity information on May 10<sup>th</sup> marks the first occasion on which it provided CLECs with *any* release capacity information for 2003 – even though CLECs clearly need to be provided with such information far earlier, in order to perform proper planning for changes and to make meaningful prioritization decisions.<sup>8</sup>

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<sup>7</sup> The release capacity information that BellSouth provided on May 10, 2002, provides the results of the “investigations” that BellSouth promised to make during the May 2<sup>nd</sup> redline/greenline meeting as to whether BellSouth would provide information concerning capacity forecasts for the implementation of defect (Type 6) or regulatory-mandated (Type 2) change requests, or for “network infrastructure.” *See* AT&T May 10 *ex parte*, “Change Control Update” at 2. BellSouth provided no such information on May 10, thus making it impossible for the CLECs to determine the actual capacity available in any release for the implementation of BellSouth (Type 4) or CLEC (Type 5) change requests. The information that BellSouth did provide on May 10 regarding capacity information for 2003 also suggests that BellSouth still seeks to utilize the CCP to inhibit CLEC participation and market entry. In the list of assumptions that it provided regarding 2003 releases and capacity planning, BellSouth states that “Capacity estimates are based on program levels similar to 2002.” This clearly confirms that, as AT&T showed in its May 10, 2002, *ex parte*, that BellSouth has given little thought to the impact of ELMS-6 (the next industry standard release) on the resources necessary to support its wholesale operations.

<sup>8</sup> BellSouth’s provision of capacity information for 2002 has been equally inadequate. As BellSouth indicates, on May 10, 2002, BellSouth provided CLECs with historical capacity information for the first quarter of 2002, together with information regarding remaining available capacity. BellSouth *ex parte* at 5. However, the information regarding remaining capacity was inadequate, because it was simply stated in the aggregate, and was not divided by release or by type of change. Thus, CLECs could not determine from this information, for example, what capacity is still available for implementation of Type 4 and

Fourth, BellSouth has made no commitment to eliminate the current backlog of change requests within a reasonable timeframe. To the contrary, BellSouth has denied that a backlog exists at all by defining “backlog” in a crabbed, totally unrealistic way. AT&T April 19 *ex parte* at 2.

In its new *ex parte*, BellSouth does not even address the backlog issue (much less commit to a specific timetable for its elimination). Instead, BellSouth cites its past record of implementing change requests as evidence that the CCP is “active” and “effective.” BellSouth *ex parte* at 9. BellSouth’s record of implementation, however, shows precisely the opposite. Even the data that BellSouth selectively cites show that it implemented only 79 prioritized change requests during the nearly three-year period from the implementation of the CCP through May 6, 2002 – an average of little more than two prioritized change requests per month. *Id.*; AT&T April 19 *ex parte* at 3. That average has not improved in recent months, despite BellSouth’s professed commitment to improve the CCP. AT&T April 19 *ex parte* at 3. Moreover, BellSouth’s *ex parte* fails to mention that nearly three-quarters of the change requests that it has implemented are *defect* change requests – which not only have limited the amount of capacity available for feature requests, but also demonstrate BellSouth’s flawed implementation of its own releases. *Id.* at 3-4. Further, as noted above, BellSouth refuses to provide estimates of future capacity reserves required for correction of defects.

Fifth, BellSouth has not designed its CAVE testing environment to reflect the production environment. That fact is overwhelmingly demonstrated by the evidence – most recently, by AT&T’s experience in using CAVE in April 2002, and by the testing proposal issued by BellSouth during the same month. *See, e.g.*, AT&T May 10 *ex parte*, “Change Control Update” at 3-4. Moreover, in its May 2<sup>nd</sup> meeting with the CLECs, BellSouth reiterated that it would not agree to a “go/no go vote” procedure. *Id.* at 4.

In short, far from “satisf[ying] the Commission’s precedent” (BellSouth *ex parte* at 10), BellSouth’s “update” in its new *ex parte* fails to show that the change control process in effect at the time of BellSouth’s application, or even today, meets the requirements of Section 271.<sup>9</sup> BellSouth continues to have a veto power over change requests; BellSouth continues to have exclusive control over the prioritization, implementation, sequencing, and timing of change requests; BellSouth has made no commitment to eliminate the substantial backlog of change requests within a specific timeframe; BellSouth fails to provide CLECs with sufficient release capacity information; and BellSouth fails to provide CLECs with an adequate test environment. Given these facts, the current CCP plainly is plainly inadequate to satisfy the competitive checklist.

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Type 5 change requests (as opposed to Type 6 requests, which have constituted nearly 75 percent of all change requests that BellSouth has implemented).

<sup>9</sup> *See Texas 271 Order*, ¶ 117 (Commission reviews change management plan in effect at time application is filed in order to determine whether applicant complies with Section 271).

One copy of this Notice is being submitted in accordance with the Commission's rules.

Sincerely,